

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**LISA FISHER,**

**Plaintiff,**

**v.**

**HON. FRANCINE A. SCHOTT, et al.,**

**Defendants.**

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**Civil Action No. 13-5549 (ES)**

**ORDER**

This matter having come before the Court by way of the motion of Defendant, the  
Honorable Francine A. Schott, to compel discovery and for sanctions, D.E. 64;

and Plaintiff having opposed the motion, D.E. 66;

and the Court having considered the parties' submissions, and having held oral argument  
on the record on July 28, 2014;

and it appearing that Defendant seeks all electronic copies of Plaintiff's "complete profile  
on Facebook, MySpace, Twitter, Instagram or any other social network of the like (including all  
updates, changes, or modifications to your profile) and all status updates, messages, wall  
comments, causes joined, groups joined, activity streams, blog entries, details, blurbs, comments,  
and applications, for the period from November 1, 2012 to the present," Defendant Schott's First  
Set of Document Production Requests to Plaintiff, attached as Ex. D to Certification of Mark Z.  
Edell, D.E. 64-2;

and it further appearing that Defendant seeks the imposition of spoliation sanctions  
against Plaintiff for any deletion, destruction, or unavailability of any information or documents  
contained within Plaintiff's social media accounts from November 1, 2012, to the present, D.E.  
66, at 18;

and it further appearing that Defendant seeks the imposition of sanctions in the form of Defendant's "reasonable expenses incurred in making this motion, including attorney's fees," D.E. 66, at 28;

and it further appearing that Defendant seeks sanctions against counsel for Plaintiff based on Plaintiff's counsel's alleged failure to obey the Court's pretrial orders, including an Order to appear at an in-person status conference on July 10, 2014, D.E. 66, at 30;

and for the reasons set forth on the record on July 28, 2014;

and for good cause shown;

IT IS on this 29<sup>th</sup> day of July, 2014,

ORDERED that Defendant's motion to compel is denied in part and granted in part.

Defendant's request for social media discovery is granted insofar as Plaintiff shall produce the following:

- (1) For the period of December 10, 2012 through December 26, 2012, Plaintiff shall produce any social media content that bears on Plaintiff's whereabouts, travel plans, and location.
- (2) For the period of December 27, 2012 through April 2, 2013, Plaintiff shall produce any social media document, post, or activity that reflects on whether Plaintiff suffered stress or anxiety, the source of any such stress or anxiety, and the manner in which that stress or anxiety manifested itself. Plaintiff shall also produce for this period of time any content that reflects on her ability to concentrate or focus, or on whether she suffered anxiety or difficulty in communicating with other people.
- (3) Plaintiff shall produce the foregoing documents in hard copy.

IT IS FURTHER ORDERED that Plaintiff shall indicate to Defense counsel and the Court, by **August 28, 2014**, whether Plaintiff seeks emotional-distress damages for any period of time after April 2, 2013 and, if so, Plaintiff shall specify that period of time. For any such period of time beyond April 2, 2013 for which Plaintiff seeks emotional-distress damages, Plaintiff shall produce any social media document, post, or activity that reflects on whether Plaintiff suffered

stress or anxiety, the source of any such stress or anxiety, and the manner in which that stress of anxiety manifested itself. Plaintiff shall also produce for this period of time any content that reflects on her ability to concentrate or focus, or on whether she suffered anxiety or difficulty in communicating with other people.

IT IS FURTHER ORDERED that Plaintiff shall produce the foregoing documents to Defendant not later than **September 3, 2014**.

IT IS FURTHER ORDERED that on or before **August 11, 2014**, the parties shall submit a **joint letter** to the Undersigned that specifies any remaining disputes concerning written discovery. The process for submitting the joint letter shall be as follows: (1) on or before **August 4, 2014**, the parties shall exchange their preliminary presentations to this Court; (2) on or before **August 11, 2014**, the parties shall exchange responses to each party's preliminary presentations; and (3) Defendant shall be responsible for incorporating the parties' preliminary presentations and responses into one document, and filing the same on ECF on August 11, 2014.

IT IS FURTHER ORDERED that Defendant's motion for sanctions for spoliation is denied without prejudice.

IT IS FURTHER ORDERED that Defendant's motion for sanctions against Plaintiff's counsel based on his failure to obey the Court's pretrial orders, including his failure to appear at the status conference on July 10, 2014, is denied.

IT IS FURTHER ORDERED that Defendant's motion for the imposition of sanctions in the form of fees and costs that Defendant incurred in preparing the motion to compel and for sanctions is denied.

**s/ Michael A. Hammer**  
United States Magistrate Judge